

Message

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Sent: 5/7/2018 9:30:24 PM
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Subject: From Inside EPA

Convictions For Falsified Data Raise Concerns Over Cleanup Contractor

May 07, 2018

The conviction and sentencing of two cleanup contractor supervisors in northern California who falsified radioactive soil sampling data at a former Navy shipyard calls into question whether the company that employed the men -- and reportedly has contracts at other contaminated sites -- could lose government contracts as a result, one environmental observer says.

The U.S. Attorney's Office for the Northern District of California, along with EPA, and investigation units in the Nuclear Regulatory Commission and Department of Defense announced May 3 the sentencing of Stephen C. Rolfe and Justin E. Hubbard, supervisors with cleanup contractor Tetra Tech EC, Inc. who oversaw a team of radiation control technicians whose job was to conduct radiological sampling and remediation at the former Hunters Point Naval Shipyard.

Both Hubbard and Rolfe pled guilty to falsifying documents, the U.S. attorney's office says in a May 3 press release. The two, for instance, substituted "clean" dirt from areas of the former base in place of soil from intended survey units undergoing radionuclide analysis, and then personally falsified or observed falsified forms containing this information, according to the release.

Their cases were unsealed May 2 when U.S. District Judge James Donato sentenced Hubbard to eight months in prison. Rolfe was sentenced in January to the same prison term. The maximum sentencing is 20 years. Additionally, Hubbard was fined \$10,000 and Rolfe was fined \$2,000, the press release says.

"Accurate data is a critical component of EPA's efforts to protect communities and the environment at Superfund sites," EPA enforcement chief Susan Bodine said. Hubbard's "sentence demonstrates that those who place communities at risk by deliberately falsifying information will be held accountable," she said.

Defense Criminal Investigative Service Special Agent in Charge Chris D. Hendrickson said, "Rolfe and Hubbard's lies and shortcuts in the soil-testing process potentially put the community at risk and frustrated the contracting efforts of the U.S. Navy to test and remediate soil at the former Hunter's Point Naval Shipyard." Their sentencing demonstrates federal law enforcement agencies "are committed to holding accountable those who cheat the Department of Defense procurement process and U.S. taxpayers."

The base's cleanup -- which sits on highly-valued land in the San Francisco Bay area -- has been embroiled in controversy over the falsification of sampling data, which whistleblowers working for Tetra Tech first raised in 2010. Whistleblowers then first reported significant data manipulation, falsification and other actions aimed at minimizing soil contamination evidence, Public Employees for Environmental Responsibility (PEER) said in an April 9 press release. PEER represents employees in the environmental field including whistleblowers who work for government agencies.

Prior to the release of information about the criminal investigations, PEER said as "many as a dozen years of sampling may be worthless."

Debarment Risk

Responding to the convictions and other controversy surrounding the cleanup, an official with PEER says Tetra Tech could be at risk of debarment -- which could affect its contract work at other sites.

"Recent criminal convictions, critical EPA reviews, and the remaining unresolved whistleblower allegations all raise serious questions about the integrity of Tetra Tech's work not only at Hunters Point but at other sites across the country," the source says in an email response.

"Commission of fraud or other criminal acts in connection with a federal contract is grounds for debarment from future federal contracts," the source says, noting that the role of the company's management in these matters will decide its culpability.

A debarment would prohibit the company from applying for any government contracts as well as extending or renewing existing contracts for three years, according to the General Services Administration website.

When asked questions about the employee convictions, Tetra Tech's culpability at Hunters Point or elsewhere and possible debarment, the company's spokesman did not reply specifically, but released a statement on the convictions and its opposition to such activity.

"Tetra Tech is fully supportive of the actions taken by the Department of Justice against the two individuals for falsifying reports at Hunters Point," he says.

"Tetra Tech vehemently rejects this type of activity and will pursue all legal actions available to recover the harm that the actions of these former employees have caused to Tetra Tech, the Navy, and the local community. We have zero tolerance for violations of established protocols and procedures on any project site."

House Democratic Minority Leader Nancy Pelosi (D-CA) issued a statement April 25, just prior to the release of the convictions, arguing that after 18 months of scrutiny from EPA and the Navy, "San Franciscans are rightly alarmed with the massive level of apparent manipulation and falsification of data by the contractor Tetra Tech."

"These actions represent a breach of the public trust, and have deep and damaging effects for the project, our community and taxpayers. The authorities must hold Tetra Tech to account, and utilize every legal avenue to prosecute criminal wrongdoing and to recover the significant cost incurred," she advised.

The whistleblowers' concerns eventually resulted in the Navy examining radiological data for parcels on the former base, recommending re-sampling for some portions.

But EPA is saying much more redundant sampling is needed than what the Navy suggested, advising far more work than the Navy recommended in its look. EPA in documents released last month, in response to a Freedom of Information Act request by PEER, reviewed the Navy's examination and found nearly all of two parcels the Navy reviewed needs to be re-sampled.

In a [Dec. 27 EPA summary letter to the Navy](#) about its findings, EPA Region 9 says, "In Parcel B, the Navy recommended resampling in 15% of soil survey units in trenches, fill, and building sites." EPA and state regulators however "found signs of potential falsification, data manipulation, and/or data quality concerns that call into question the reliability of soil data in an additional 76% of survey units, bringing to 90% the total suspect soil survey units in Parcel B," EPA says.

"In Parcel G, the Navy recommended resampling 49% of survey units, and regulatory agencies recommended 49% more, for a total of 97% of survey units as suspect," it says.

An EPA Region 9 spokeswoman says the Navy has agreed to resample 100 percent of these survey units. The agency has also been reviewing other parcels at the site, she says.

EPA in its December letter found a pattern of bad practices, saying, "In summary, the data analyzed demonstrate a widespread pattern of practices that appear to show deliberate falsification, failure to perform the work in a manner required to ensure [cleanup Record of Decision] requirements were met, or both."

Cleanup Contracts

It is unclear if the convictions will lead to repercussions for Tetra Tech, which sources say has cleanup contracts at other contaminated sites. A spokesman for Tetra Tech did not answer questions on the amount of cleanup contracts the company holds.

Among the federal contracts Tetra Tech has been awarded in the past year, according to the company's press releases, are a Navy contract for environmental remediation of radiological contaminants at various Navy and Marine Corps installations in California, Arizona, Nevada, Colorado, New Mexico, Utah, and other locations throughout the United States. Tetra Tech's Chairman and CEO Dan Batrack said in the April 10, 2017, press release that the company has supported the Navy for over four decades and specifically the Naval Facilities Engineering Command Southwest in remediation of radiological contaminants for more than 12 years.

In addition to cleanup contracts with EPA and the Defense Department, EPA has awarded contracts to Tetra Tech to provide technical support to the Office of Water and technical and analytical support to the Office of Research and development.

Convicted employee Rolfe in his plea agreement, filed March 15, 2017, contended that he did not receive additional compensation for performing the falsification actions but felt pressure from company supervisors. He alleges one supervisor repeatedly told him to "get the hell out of that area," referring to a specific survey unit that was failing to test clean for radionuclides. Another told him more than once that "we were 'not remediating the whole goddamn site,'" he alleges. And an assistant Hunters Point Naval Shipyard project manager "told me on numerous occasions to 'get clean dirt,'" he said. - *Suzanne Yohannan* (syohannan@wpnews.com)